# SPEECH

OF

# HON. WILLIAM SMITH, OF VIRGINIA,

ON THE

# BILL FOR THE ADMISSION OF MINNESOTA;

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, MAY 6, 1858.

WASHINGTON:
PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.
1858.

The Constitution has conferred on Congress the right to establish a uniform rule of naturalization, and this is evidently exclusive, and has always been held by this court to be so.—*Dred Scott* vs. *Sanford; Federalist*, Nos. 32 and 42, &c.

Naturalization is the means by which an alien is introduced into the body-politic and clothed with all the rights and privileges of one born in the country.—*Vattel.*

Can a State, by any provision of her constitution or law in conformity thereto, annul in effect the naturalization law of our Union without violating the Federal Constitution?

"I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege but such as would be a real addition to the wealth or strength of the United States."

Here is the doctrine, as laid down by Mr. Madison, that I maintain. This is the position I occupy. This is the ground upon which I can stand before the country.—*William Smith, of Virginia.*

# ADMISSION OF MINNESOTA.

The House having under consideration the bill for the admission of Minnesota as a State into the Union—

Mr. SMITH, of Virginia, said:

Mr. SPEAKER: Various views have been presented on this important question, the importance of which I myself feel, and which I am disposed to consider; and I now ask the attention of the House, while I present the results of this consideration. I hold that it is very clear that we ought not lightly, and without due and proper consideration, to add to the number of States in our Federal Union. We ought, at least, to see that they come in, in strict conformity with the Constitution. In the consideration of this subject I shall beg leave to state a few general principles, and to make some considerable references to authorities. I shall not indulge in many speculations of my own; but I shall seek, from the establishment of principles, to demonstrate the propriety of the conclusion to which I think this House ought to come.

It becomes interesting to inquire—and the House will readily see that this question is involved—what constitutes a country or a nation? I should suppose it to be clear and undoubted, that in the creation of our Federal system and in the adoption of our Constitution, it was designed to cover the citizens or the people of the United States, and them only. Is it possible, can it be seriously considered, that in the formation of the Constitution of the United States, it was the purpose and intention of our fathers to provide a Constitution for persons who were not citizens of the United States? I beg gentlemen to pause here, and to look at the question in this single light. In the formation of our Federal Constitution was it designed for any others than the people of the United States, being citizens thereof? I maintain, sir—I have frequently maintained, and am prepared, if I can gain the attention of the House, to maintain now—that in the action of our system, in all its ramifications and parts, we must look to this great fundamental principle, that our Constitution was framed for the people of the Union, being citizens of the United States, and for no others. I will refer to Vattel—in sections one hundred and twenty-two, two hundred and twelve, two hundred and thirteen, and two hundred and fourteen—for the purpose of showing that the term "country" signifies "the State of which one is a member;" and is "thus understood in the law of nations."

This doctrine is fully maintained in the Dred Scott decision. Chief Justice Taney, in delivering the opinion of the court, said:

"The words 'people of the United States' and 'citizens,' are synonymous terms, and mean the same thing."

He also said:

"It is true, every person, and every class and description of persons, who were at the time of the adoption of the Constitution recognized as citizens in the several States, became also citizens of this new political body, but none other. It was formed by them, and for them and their posterity; but for no one else. And the personal rights and privileges guaranteed to citizens of this new sovereignty were intended to embrace those only who were then members of the several State communities, or who should afterwards by birthright or otherwise become members, according to the provisions of the Constitution, and the principles on which it was founded. It was the union of those who were at that time members of distinct and separate political communities, into one political family, whose power, for certain specified purposes, was to extend over the whole territory of the United States."

This is the true doctrine; and, if remembered and respected, will furnish an easy solution of many of the questions involved in this discussion.

The distinction between citizens and aliens will be found laid down in Vattel, sections two hundred and twelve and two hundred and thirteen. The distinction between citizens and foreigners is clearly marked there. In the two hundred and fourteenth section it is laid down that naturalization is one means, and the only means, by which a foreigner can be declared a citizen of a country.

This being the doctrine, I propose now to read from various authorities on the subject, to show not only the policy, but the true doctrine which bears on this subject. It is known to us all that, in the Constitution of the United States, there is a clause designed to secure uniformity throughout the Union in the naturalization of foreign born.

But it is a subject so clearly demonstrated that it was absolutely necessary that the power should be confined to the Federal Government, that it did not produce the briefest discussion. It is a curious fact that, in the convention which framed the Constitution, there was not one word of discussion on that subject. Mr. Randolph, who was the chairman of the committee to whom the subject of drafting the Constitution was first referred, says:

"But as the convention, had originated from Virginia, and his colleagues supposed that some proposition was expected from them, they had imposed this task upon him."

Mr. Randolph also said:

"A provision for *harmony* among the States, as in trade, *naturalization*, &c., *must be made*."

Mark you, sir, that Mr. Randolph, in making his report, said that there were certain great subjects in which there should be no division of opinion, in which there should be harmony between all the States. One of these is naturalization.

That is not all. In May, 1787, Mr. C. Pinckney submitted a draft of a Constitution, in which is found the power "to establish uniform rules of naturalization." June 15, 1787, Mr. Patterson, of New Jersey, submitted a draft of a constitution, in which is found a power "that the rule of naturalization ought to be the same in every State."

Sir, as I said before on this specific grant of power, there appears to have been no discussion. Its necessity, its propriety, its fitness, seem to have been universally conceded; and I desire to call attention to the fact for the purpose of enabling the House to follow me, I trust satisfactorily, to the conclusions which I shall draw.

But, sir, that is not all. Judge Story, in his essay on the Constitution of the United States, treats this subject. He depicts the evils to be avoided; and, although I may weary the House, yet I will read from that book. In sections 1098 and 1099, volume three, of the edition in my possession, Judge Story says:

"1098. The propriety of confiding the power to establish a uniform rule of naturalization to the national Government seems not to have occasioned any doubt or controversy in the convention. For aught that appears in the journals, it was conceded without objection. Under the Confederation, the States possessed the sole authority to exercise the power; and the dissimilarity of the system in different States was generally admitted, as a prominent defect, and laid the foundation of many delicate and intricate questions. As the free inhabitants of each State were entitled to all the privileges and immunities of citizens in all the other States, it followed that a single State possessed the power of forcing into every other State, with the enjoyment of every immunity and privilege, any alien whom it might choose to incorporate into its own society, however repugnant such admission might be to their polity, conveniences, and even prejudices. In effect, every State possessed the power of naturalizing aliens in every other State a power as mischievous in its nature as it was indiscreet in its actual exercise. In one State, residence for a short time might, and did, confer the rights of citizenship. In others, qualifications of greater importance were required. An alien, therefore, incapacitated for the possession of certain rights by the laws of the latter, might, by a previous residence and naturalization in the former, elude at pleasure all their salutary regulations for self protection. Thus, the laws of a single State were preposterously rendered paramount to the laws of all the others, even within their own jurisdiction. And it has been remarked, with equal truth and justice, that it was owing to mere casualty that the exercise of this power, under the Confederation, did not involve the Union in the most serious embarrassments. There is great wisdom, therefore, in confiding to the national Government the power to establish a uniform rule of naturalization throughout the United States. It is of the deepest interest to the whole Union to know who are entitled to enjoy the rights of citizens in each State, since they thereby, in effect, become entitled to the rights of citizens in all the States. If aliens might be admitted indiscriminately to enjoy all the rights of citizens at the will of a single State, the Union itself might be endangered by an influx of foreigners, hostile to its institutions, ignorant of its powers, and incapable of a due estimate of its privileges.

"1099. It follows, from the very nature of the power, that to be useful, it must be exclusive; for a concurrent power in the States would bring back all the evils and embarrassments which the uniform rule of the Constitution was designed to remedy. And, accordingly, though there was a momentary hesitation, when the Constitution first went into operation, whether the power might not still be exercised by the States, subject only to the control of Congress, so far as the legislation of the latter extended, as the supreme law, yet the power is now finally established to be exclusive. (See the Federalist, No. 32, 42; Chirac *v.* Chirac, 2 Wheat. R. 259, 269; Rawle on the Const. ch. 9, p. 84, 85, to 88; Houston *v.* Moore, 5 Wheat. R. 48, 49; Golden *v.* Prince, 3 Wash. Cir. Ct. R. 313, 322; 1 Kent's Comm. Lect. 19, p. 397; 1 Tuck. Black. Comm. App. 255 to 259.) The Federalist, indeed, introduced this very case, as entirely clear, to illustrate the doctrine of an exclusive power by implication, arising from the repugnancy of a similar power in the States. 'This power must necessarily be exclusive,' say the authors; 'because, if each State had power to prescribe a distinct rule, there could be no uniform rule.'"

Mr. Speaker, I have called attention to these clauses in this standard authority upon the Constitution, for the purpose of marking what I deem important in reference to the ultimate conclusion at which I propose to arrive. It is a doctrine which will not be questioned by any one; but it will be contended that it does not present the real question involved in the bill before us. I propose to show that it does.

I desire now to call attention to what is said in the Federalist upon the subject, because it was a cotemporaneous exposition of the Constitution; it was designed to present the Constitution in such a light to the American people as to secure its adoption; it was the exposition, too, of great and impartial minds, and I propose to read from two of the numbers, one by Mr. Hamilton, and the other by Mr. Madison. In the one by Mr Hamilton, he goes on to classify the circumstances under which powers are denied to the States. He says they are of three descriptions or classes. One is where exclusive power is granted in terms to the General Government; another is where powers are denied to the States; and the third is where the power is totally contradictory and repugnant if exercised by the States; and I take this occasion here to read his emphatic and delightful doctrine upon the subject of the true construction of the Constitution. He says:

"But as the plan of the convention aims only at a partial union or consolidation, the State governments would clearly retain all the rights of sovereignty which they before had, and which were *not*, by that act, *exclusively* delegated to the United States."

Again:

"And where it granted an authority to the Union to which a similar authority in the States would be absolutely and totally contradictory and repugnant."

Further on he says:

"The third will be found in that clause which declares that Congress shall have power to establish A UNIFORM RULE of naturalization throughout the United States. This must necessarily be exclusive; because if each State had power to prescribe a DISTINCT RULE, there could be NO UNIFORM RULE!"

But Mr. Madison wrote upon this subject also, and I desire to call particular attention to his views upon it. Mr. Madison, in treating the same question, for it was one, I beg you to remember, that interested deeply the American people, goes over

the same ground with his characteristic power and clearness.

In the forty-second number of the Federalist, Mr. Madison says:

"The dissimilarity in the rules of naturalization has long been remarked as a fault in our system, and as laying a foundation for intricate and delicate questions. In the fourth article of the Confederation it is declared 'that the *free inhabitants* of each of the States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all the privileges and immunities of *free citizens* in the several States; and *the people* of each State shall, in every other, enjoy all the privileges of trade and commerce, &c.' There is a confusion of language here, which is remarkable. Why the terms *free inhabitants* are used in one part of the article, *free citizens* in another, and *people* in another; or what was meant by superadding to 'all privileges and immunities of free citizens,' 'all the privileges of trade and commerce,' cannot easily be determined. It seems to be a construction scarcely avoidable, however, that those who come under the denomination of *free inhabitants* of a State, although not citizens of such State, are entitled, in every other State, to all the privileges of *free citizens* of the latter; that is, to greater privileges than they may be entitled to in their own State: so that it may be in the power of a particular State, or rather every State is laid under a necessity, not only to confer the rights of citizenship in other States upon any whom it may admit to such rights within itself, but upon any whom it may allow to become inhabitants within its jurisdiction. But were an exposition of the term 'inhabitants' to be admitted, which would confine the stipulated privileges to citizens alone, the difficulty is diminished only, not removed. The very improper power would still be retained by each State, of naturalizing aliens in every other State. In one State, residence for a short term confers all the rights of citizenship; in another, qualifications of greater importance are required. An alien, therefore, legally incapacitated for certain rights in the latter, may, by previous residence only in the former, elude his incapacity; and thus the law of one State be preposterously rendered paramount to the law of another, within the jurisdiction of the other.

"We owe it to mere casualty that very serious embarrassments on this subject have been hitherto escaped. By the laws of several States, certain descriptions of aliens, who had rendered themselves obnoxious, were laid under interdicts inconsistent, not only with the rights of citizenship, but with the privileges of residence. What would have been the consequence if such persons, by residence or otherwise, had acquired the character of citizens under the laws of another State, and then asserted their rights as such, both to residence and citizenship, within the State proscribing them? Whatever the legal consequences might have been, other consequences would probably have resulted, of too serious a nature not to be provided against. The new Constitution has, accordingly, with great propriety, made provision against them, and all others, proceeding from the defect of the Confederation on this head, by authorizing the General Government to establish a uniform rule of naturalization throughout the United States."

In the Dred Scott decision, before referred to, the same doctrine is maintained:

"The Constitution has conferred upon Congress the right to establish a uniform rule of naturalization, and this right is evidently exclusive, and has always been held by this court to be so."

I advert to these important authorities for the purpose of letting this House see that every evil depicted there, and every evil designed to be averted by the power thus exclusively conferred upon the Federal Government, is to be revived and restored under the system which now seems likely to be adopted. If, then, this power be exclusive, I ask how the States can concern with it? I maintain that until naturalization is completed, the power of Congress over the foreigner remains. I repeat, and I desire it to be understood, that Federal authority does not relinquish its control over the foreigner until his right to naturalization is perfected.

What is requisite to give a foreigner the right of suffrage? He must make his declaration; he must be five years in the country, and that must be proved by two citizens of the United States; he must show himself to be a man of probity and good demeanor, and to have borne an unquestionable character; he must show that he is acquainted with our institutions, and attached to the principles of our Government. Suppose that the foreigner should ask to be naturalized, and should fail in any of these requisites: can he acquire the right of citizenship? Suppose that he turns out to be a man of bad character; suppose it is notorious that he is anything but friendly to our free institutions; suppose, instead of showing he is attached to the principles of our Government, that it is shown that he is still a monarchist: he cannot acquire the rights of naturalization; and thus it is, sir, he may be rejected in the very last moment, after having been five years in the country, and when he appears in court to perfect his right to citizenship. Congress, then, does not lose its hold of him until the last hour; and, until he becomes an American citizen, the State has no power to confer upon him the rights of suffrage in any Federal election. I think that this is one of those propositions which cannot be controverted; and I think that, as Congress controls him until all the conditions required by the naturalization laws are fully complied with, it is conclusive evidence that the State has no power to confer upon him any political right under the Federal Constitution whatever.

It is said, in this connection, that the States have always exercised this power. That was said by some gentlemen who have preceded me in this debate. Allow me to say, that I think that is a great mistake. You know that this subject anxiously engaged the attention of those who preceded us; and without dwelling upon it, I beg leave to call the attention of the House to what, in debating the naturalization laws in 1795, Mr. Gallatin said. The question came up in connection with the right of suffrage in his own State. There were many persons naturalized under the State law who were excluded from all the rights of United States citizenship. I get what I extract from Gales & Seaton's Annals:

"Mr. GALLATIN wished to know whether the provisions of this act are intended to extend to persons who were in the country previous to the passing of the law of January, 1795, which requires a residence of five years before an alien can become a citizen, but who have neglected to become citizens, as well as to all those aliens who have come to this country since January, 1795?

"Again, he said, one reason which led him to mention this circumstance was, that there are a great number of persons in the State of Pennsylvania, and many in the district from whence he came, who, though they are not citizens of the United States, really believe they are. This mistake has arisen from (an error common to most of the districts of the United States) a belief that an alien's being naturalized by the laws of a State government, since the act of 1790, made him a citizen of the United States. He always thought that construction to be wrong, Congress having the power to pass, and having passed, a uniform naturalization law, which, in his opinion, excluded the idea of admission to citizenship on different terms by the individual States. But he knew the contrary opinion, till lately, generally prevailed. Indeed, he knew that at the late election in that city, the votes of respectable merchants, who had obtained American registers for their vessels, on a presumption of their being citizens, were refused on this ground. The same mistake had extended to other parts of the Union.

"Mr. G. supposed that since the year 1790, from ten to fifteen thousand emigrants had come into the State of Pennsylvania, two thirds of whom believed, till lately, that they were citizens of the United States, from their having been naturalized by the laws of that State. It has now been dis-

covered that they are not citizens; but since that discovery was made, they have not had an opportunity of being admitted according to the law of the United States.

Here you see, in reference to naturalization under State laws, Mr. Gallatin concedes that those thus naturalized were not citizens, and that consequently the right of suffrage should be denied them. He himself was of foreign birth, and of course interested in the question, and would not hastily have decided as he did.

Mr BLISS. Will the gentleman yield to me for a moment?

Mr. SMITH, of Virginia. Certainly.

Mr. BLISS. I rise simply for the purpose of asking the gentleman from Virginia to give us, if he has the act before him, the language of the Pennsylvania statute upon that subject.

Mr. SMITH, of Virginia. I have it not. I have read from the debate of 1795.

Mr. BLISS. I asked the question because I did not know exactly what that statute was.

Mr. SMITH, of Virginia. The debate was upon the subject of naturalization.

Mr. BLISS. The question is this: whether the Pennsylvania statute, to which the gentleman refers, conferred the elective franchise, or undertook to naturalize generally?

Mr. REAGAN. I desire to say a word upon the point on which the gentleman from Ohio has interrupted the gentleman from Virginia. I will call the attention of the gentleman from Virginia to the fact that, by an early decision of the courts of Pennsylvania, it was held that a State had concurrent jurisdiction with the Federal Government in the matter of the naturalization of foreigners; and to the debate growing out of that matter, I apprehend that the clause which the gentleman read referred. It did not relate to the question of the right of a citizen to vote, but related alone to the power to naturalize.

Mr. SMITH, of Virginia. What is naturalization? It is the giving to foreigners rights which they did not previously possess, and among them the right to vote. Did the Pennsylvania law confer that right? If it be the decision of a statute, I care not; but did the Pennsylvania law give that right. The answer is at hand. Says Mr. Gallatin:

"Indeed, we knew that, in the late election in this city, the *votes* of respectable merchants, who had obtained American registers for their vessels on a presumption of their being citizens, were refused on this ground. The same mistake had extended to other parts of the Union."

On what ground were they refused the right of suffrage? Gentlemen talk about this Pennsylvania law not conferring the right of suffrage; and yet here it is expressly said that it did confer the right of suffrage, and these men sought to exercise that right under the Pennsylvania naturalization law. I may not understand it; but here it is, and "he who runs may read." If a man who came forward to vote under the provisions of that law was excluded, he was excluded upon the ground that he was not a citizen of the United States; and if he was permitted to vote, it would be upon the presumption that he was a citizen of the United States; and I undertake to say, and I have no doubt such will be the fact, that this Pennsylvania law was passed prior to the adoption of the Constitution. It was, no doubt, the old Pennsylvania constitution regulating this question, which was superseded, as was decided in a case in the State of Maryland, by the adoption of the Federal Constitution. That will no doubt be found to be the state of things, and those respectable merchants were denied the right of suffrage, though located permanently in the country, because they were not citizens of the United States, and not because of any other provision, citizenship being the fundamental condition to the exercise of this high attribute of popular sovereignty. I think it will be found that this is the clew to the subject.

But without dwelling at large upon this subject, let me proceed. In a case which came directly before the Supreme Court of the United States, as reported in second Wheaton, the court went into a discussion of the question of property, and they superseded the law of the State of Maryland, and gave the property a different direction from what it would have taken if the party claiming it had been a citizen of the United States. And why? Because it was the purpose of the founders of the Republic to confine the right of suffrage, that great fundamental political right of popular liberty, to those who were citizens of the United States, whether native or foreign-born.

I will now proceed to call the attention of the House to the sentiments of our fathers. Gentlemen have extraordinary notions upon this subject. They have the notion that anybody who comes here is at once entitled to participate in the right of suffrage. Every year adds some three hundred thousand foreigners to our population, and they are not required to wait the period of time specified by the act of Congress, prescribing the rule of naturalization, but they are precipitated in hot haste upon the ballot-box, and introduced into the political struggles of the day. Is that right?

I beg, in this connection, to call the attention of the House to what passed in the Federal convention. I know it is thought that there was a policy in that day which required us to encourage emigration. Yes, sir, there was a policy which required it to a limited extent. But how? To that matter I now call your attention. Colonel Mason, of Virginia, then one of the leading members of Congress, who was for opening a wide door for emigrants, but did not choose to let foreigners make laws for us, said:

"Were it not that many, not natives of this country, had acquired great credit during the Revolution, he should be for restraining the eligibility into the Senate to natives."

Mr. Butler, a very distinguished man of that day, said that he—

—"was decidedly opposed to the admission of foreigners without a long residence in the country. They bring with them, not only attachments to other countries, but ideas of government so distinct from ours that in every point of view they are dangerous. He acknowledged that, if he himself had been called into public life within a short time after his coming to America, his foreign habits, opinions, and attachments, would have rendered him an improper agent in public affairs."

"Mr. RANDOLPH did not know but it might be problematical whether emigrants to this country were, on the whole, useful or not."

"Mr. GERRY wished that in future the eligibility might be confined to natives."

"Mr. WILLIAMSON moved to insert nine years instead of seven. He wished this country to acquire, as fast as possible, national habits. Wealthy emigrants do more harm, by their luxurious habits, than good by the money they bring with them."

"Mr. BUTLER was strenuous against admitting foreigners into our public councils."

"Mr. SHERMAN. The United States have not invited foreigners, nor pledged their faith that they should enjoy equal privileges with native citizens. The individual States

alone have done this. The former, therefore, are at liberty to make any discriminations they may judge requisite."

"Mr. MADISON animadverted on the peculiarity of the doctrine of Mr. Sherman. It was a subtilty by which every national engagement might be evaded."

"Colonel MASON was struck, not, like Mr. Madison, with the *peculiarity*, but the *propriety* of the doctrine of Mr. Sherman. The States have formed different qualifications themselves for enjoying different rights of citizenship."

I read these remarks for the purpose of letting the House see and understand what was the temper and tone and sentiment of those who framed our organic law. I want the House to understand that even at that day, when we were in a state of almost political dissolution—a weak and feeble people, threatened with the anger of the British lion—even then the rights of American citizens were highly appreciated, and the privilege of foreigners sharing in them was guarded with jealousy and care. Nor is that all. I propose to read, for the information of the House, the debate on the first bill passed on the subject of naturalization, in which the healthy tone of public sentiment, on the part of our fathers, cannot fail to be highly refreshing to us, their sons.

On the first bill establishing a uniform rule of naturalization, a protracted debate sprang up, in which the following sentiments were expressed, in which it was assumed that naturalization was necessary to give the right of suffrage. The debate commenced February 3, 1790. Mr. Hartley said:

"The policy of the old nations of Europe has drawn a line between citizens and aliens; that policy has existed, to our knowledge, ever since the foundation of the Roman Empire. Experience has proved its propriety, or we should have found some nation deviating from a regulation inimical to its welfare. From this it may be inferred that we ought not to grant this privilege on terms so easy as is moved by the gentleman from South Carolina. If he had gone no further in his motion than to give aliens a right to purchase and hold lands, the objection would not have been so great; but if the words are stricken out that he has moved for, an alien will be entitled to join in the election of your officers at the first moment he puts his foot on shore in America, when it is impossible, from the nature of things, that he can be qualified to exercise such a talent."

Mr. Madison said:

"I should be exceedingly sorry, sir, that our rule of naturalization excluded a single person of good fame that really meant to incorporate himself into our society; on the other hand, I do not wish that any man should acquire the privilege, but such as would be a real addition to the wealth or strength of the United States."

Here is the doctrine, as laid down by Mr. Madison, that I maintain. This is the position I occupy. This is the ground upon which I can stand before the country. But to proceed:

"Mr. SMITH, of South Carolina, thought some restraint proper, and that they would tend to raise the Government in the opinion of good men, who are desirous of emigrating; as for the privilege of electing or being elected, he conceived a man ought to be some time in the country before he could pretend to exercise it.

"He said, the intention of the present motion is, to enable foreigners to come here, purchase and hold lands; but this will go beyond what the mover has required; and therefore, it will be better to draft a separate clause, admitting them to purchase and hold lands upon a qualified tenure and preemption right, than thus admit them at once to interfere in our politics. The quality of being a freeholder is requisite, in some States, to give a man a title to vote for corporation and parish officers. Now, if every emigrant who purchases a small lot, but perhaps for which he has not paid, becomes in a moment qualified to mingle in their parish or corporation politics, it is possible it may create great uneasiness in neighborhoods which have been long accustomed to live in peace and unity.

"Mr. HARTLEY said, an alien has no right to hold lands in any country; and, if they are admitted to do it in this, we are authorized to annex to it such conditions as we think proper.

"He also said, with respect to the policy of striking out the words altogether from the clause, and requiring no residence before a man is admitted to the rights of election, the objections are obvious. If, at any time, a number of people emigrate into a seaport town—for example, from a neighbouring colony into the State of New York—will they not, by taking the oath of allegiance, be able to decide an election contrary to the wishes and inclinations of the real citizens."

"Mr. MADISON said, whether residence is, or is not, a proper quality to be attached to the citizen, is the question? In his own mind, he had no doubt but residence was a proper prerequisite, and he was prepared to decide in favor of it."

"Mr. SEDGWICK said, some kind of probation, as it has been termed, is absolutely requisite, to enable them to feel and be sensible of the blessing. Without that probation, he should be sorry to see them exercise a right which we have gloriously struggled to attain."

"Mr. SMITH, of South Carolina, said, for his part, he was of opinion, that a uniform rule of naturalization would tend to make a uniform rule of citizenship pervade the whole continent, and decide the right of a foreigner to be admitted to elect, or be elected, in any of the States."

"Mr. TUCKER said, he was otherwise satisfied with the clause, so far as to make residence a term of admission to the privilege of election."

Mr. BISHOP. Do I understand the gentleman to take the ground that no person is entitled to vote in any State except he be a citizen of the United States?

Mr. SMITH, of Virginia. Yes, sir, in all Federal elections.

Mr. BISHOP. And that a person born out of the country must be in the United States a certain number of years before he is a citizen, according to the laws of the country?

Mr. SMITH, of Virginia. Yes, sir; he must be naturalized.

Mr. BISHOP. I would now like to inquire how, on that ground, when Texas was admitted into the Union, the persons living in Texas could be entitled to vote in that State until Texas had been in the Union for a period of five years?

Mr. SMITH, of Virginia. That was under a separate clause, and a power altogether different in its character, providing for such a case.

Mr. STEVENSON. I would like to propound this question to the gentleman from Virginia. I find, by the Constitution of the United States, that there is a limitation on the qualifications of electors for President and Vice President of the United States: but I find, by the same clause, that under the Constitution of the United States the whole number of the electors may be aliens; that there is no restriction of citizenship in any part of the Constitution. Although there is a limitation as to offices, there is none as to citizenship as a qualification of electors for President and Vice President; and I should like to hear from the gentleman on that point.

Mr. SMITH, of Virginia. I am very much obliged to the gentleman for bringing me to that point. He is an American citizen. He has a country which extends its wings over him. He has a country's flag to stand by, and sustain him; and will he ever forget that that country is composed of those who are the people of the United States, and the citizens thereof? The Constitution had no more idea of providing against the man in France, or the man in Turkey, being an elector, than against any other absurdity. In speaking of electors, and declaring, in the preamble and elsewhere, that the people of the United States have formed this constitution, its framers, *ex vi termini*, restricted its character, and confined it in all its

relations to the people for whom it was formed. Will the gentleman remember that the rights of foreigners are grants—that even the right to gentle treatment is strictly social, and particularly that political rights are never his except by express grant, and that presumptions are always against and never for him?

Why, sir, I am amazed—perfectly amazed, that here, in this Government of ours, under our Constitution, in this glorious land, there should be an idea that, because a constitution framed for the people or citizens of the United States does not exclude foreigners from the highest functions of Government, therefore that foreigners have a right to them. Foreigners have no rights except what are granted to them. They have no right even to hold land in the United States, or in the States thereof, without the power is conferred. They are aliens outside of our system, and are as utterly destitute of power as the man in the moon. Instead of showing that there is nothing against it, you have to show that the power exists and is granted. I lay it down that the Federal Constitution gives to this Government the exclusive power of saying who of the foreign-born shall be citizens, and having exercised that authority and said who shall be citizens, the exclusive power is in the State government to say who of her citizens shall exercise the right of suffrage. I might produce authorities if I had time. I might refer to Chancellor Kent, who assumes, as a matter of course, that nobody but a citizen has a right to exercise the right of suffrage. It is a political postulate which he does not consider it worth while to argue.

Having stated the principles—all that I can do in the present exigency, my time being nearly exhausted—I now apply them. Let us look at the evils which this system is to inaugurate. A majority of foreigners settle one of the States of the American Republic. They give form to the fundamental organization of that State. That is not all; they say who shall vote. Here is the section of this Minnesota constitution upon the subject of suffrage:

"SEC. 1. Every male person of the age of twenty one years or upwards, belonging to either of the following classes, who shall have resided in the United States one year, and in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people:

"1. White citizens of the United States.

"2. White persons of foreign birth, who shall have declared their intentions to become citizens, conformably to the laws of the United States upon the subject of naturalization.

"3. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

"4. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any district court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State."

Now, for whom are they to vote? They are to vote for a member of the House of Representatives. He comes here, and we have a right to look into the qualifications of the voters who sent him here, and we have a direct right to ascertain whether he has been duly elected by citizens of the United States. That is not all, sir. By their votes the Legislature of the State is elected, which elects United States Senators, and we have a right to ascertain whether those Senators have been elected by proper persons. But that is not all. These same persons have a right, it is contended, to cast their suffrages for electors of the President of the United States. They may decide a presidential election. And that is not all. The election of President may come into this House, and may turn upon the vote of a single State, and the election in that State may have depended on the vote of one individual, and that an unnaturalized foreigner just landed. Will any gentleman say that the introduction of such a system, affecting as it does the House of Representatives, the Senate, and the Presidency of the United States, would not lead to a frightful mass of evils to the Federal organization? If such an idea could have been thought of, dreamed of, or imagined by those who framed the Federal Constitution, when they were seeking to secure uniformity in social intercourse among the States, is it to be supposed for an instant that they would not have provided against it? But no man ever dreamed that voters were to be made out of any but citizens of the United States; that the law for the naturalization of foreigners was itself to be practically repealed, and that foreigners, before they had remained here five years, and had acquired the moral and intellectual qualifications required, were to be put into full fellowship with our native-born citizens, and allowed to wield as large a mass of political power.

Look at the consequences of such a condition of things. From three to five hundred thousand foreigners—many of them, I admit, very meritorious and unexceptionable persons—come into this country every year, and settle in our new States and Territories; and under this system they are to be permitted at once to organize themselves into States, to send representatives to this House and to the Senate, and to participate in the election of the President of the United States, without ever having conformed to the requisition of the naturalization laws. In the name of God! is it not necessary to put a stop to this state of things? We are running downwards with hot haste. We are disregarding our ancestors and their wise and patriotic example. A new element of progress has been introduced, but all progress is not improvement—*facilis descensus Averni, sed revocare gradum*, &c. I insist upon it, then, that in view of the principles and doctrines of the Constitution, we ought not to tolerate the introduction of a system of franchise that must be productive of such consequences, and which admits to the ballot-box men who, it may be, are unable to speak our language, unacquainted with our institutions, and unfriendly to the principles of our Government. My time will not allow me to expand this subject, and give other views which I would be glad to lay before the country.